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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,848	03/25/2004	Richard B. Lynch		6527

7590 11/10/2005

RICHARD B. LINCH
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WEST SENECA, NY 14224

EXAMINER

HANEY, RICHALE LEE

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/808,848	Applicant(s) LINCH ET AL.	
	Examiner Richale L. Haney	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/25/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are unclear and difficult to examine because of shaded areas, line drawings are preferred. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
2. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the forward boning (46) extending from the midpoint (42) and a surrounding boning member, and a pull tab

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on the inside of internal folded band, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because Figures 5 and 10 have dimensions and words, rather than characters that are referenced in the disclosure. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: subject headings are improperly underlined.

Appropriate correction is required.

Claim Objections

6. Claims 1 –13 are objected to because of the following informalities: claim numbers should be left justified. Appropriate correction is required.

7. Claim 13 objected to because of the following informalities: there appears to be a syntax error. The first section of the claim regarding the hat storage device has been duplicated and appears twice in the same claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 4-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 sets forth the limitation that the wallet is attached to a cross boning member, first and second support members, forward member and closure member and in a contradicting limitation states that the wallet is attached at one end of the support boning and another end of support boning member. It is unclear whether if the material is attached on four sides as recited first or only on two sides.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1 – 5, 8, 12 and 13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Whittaker (US 5,647,064) in view of MaCallum et al. (US 6,023,788). The device of Whittaker shows a removably attachable boning structure in a pressure fit for holding articles (Column 1; lines 58 –62) within a baseball hat by inserting the boning members into the folds of the internal headband (Figure 2, 18, 22). The boning structure is comprised of a cross boning member (Figure 3, 40,38), a forward boning member portion that extends from the cross boning member (Figure 3, 32) and attaches the forward boning securing member at another end (Figure 3, 44, 42). The device of Whittaker also discloses fasteners for carrying objects between the cap and the head supported by the boning member structure (Column 1, lines 54 –57; Figure 3, 48). The device of Whittaker is lacking a wallet covered by net material attached to the boning structure, having a pull tab, pouch pocket and a side pouch. The device of McCallum et al. (US 6,023,788) shows a fabric wallet structure (Figure 1, 22) with a pouch pocket within the wallet and a pull tab (Figure 1, 32). In combination with

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the device of Whittaker the wallet portion would be attached, in place of the previously set forth storage structure, to the boning structure so as to provide support for the wallet when used in combination. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Whittaker by utilizing a wallet structure with pouch pocket and pull tab as taught by MaCallum in order to provide storage for small items (Column 2, lines 49 –51). In regard to the limitation of an additional wallet with pull-tab provided on a side of the hat for additional storage, this is a mere duplication of parts and no additional patentable weight has been granted. See *In re Harza*, 274 F.2d 449, 104 USPQ 378 (CCPA 1960).

13. Claims 6 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whittaker and MaCallum et al. as applied to claims 1 – 5, 8, 12 and 13, above, and further in view of Baclawski (US 5,634,579). The modified device of Whittaker shows all of the claimed invention except for the material of the wallet comprising netting. The device of Baclawski shows a wallet made from netting (Figure 1, 14E; Column 4, line 54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the fabric wallet with the net wallet taught by Baclawski so that the contents held are viewable by the wearer.

Allowable Subject Matter

14. Claim 9 and dependent claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: The present invention pertains to a device that specifically requires the pouch is attached by inserting cross boning member through a sleeve in the pouch. It is the examiner's opinion that the art of record considered as a whole, alone, or in combination, neither anticipates nor renders obvious a sleeve, used in combination with a hat and wallet storage device having an attachment means comprising a sleeve.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beaton (US 5,465,426) shows a pocket portion with tab inside of internal band
McCallum et al. (US 5,724,678), Gooding (US 1,422,435), Gamm (US 4,312,076)
show caps with storage devices.

Lee (US 6,012,173), Boughten (US 4,989,270), Pass (US 4,790,034), Beebe (US
3,255,463), Lipschultz (US 3,133,289), Hassler (US 2,640,992), Deegan (US
1,984,521) and Morgan (US 1,825,810) show headwear with internal support
means.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Richale L. Haney whose telephone number is 571-272-
8689. The examiner can normally be reached on M-F 8:00 - 4:30.

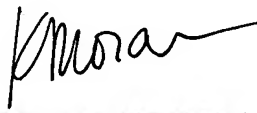
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richale L. Haney
Patent Examiner
Art Unit 3765
November 4, 2005

RLH


KATHERINE MORAN
PRIMARY EXAMINER